

*44th Annual Report
2011*

*Michigan
Law
Revision
Commission*

Term Members:

RICHARD D. MCLELLAN,
Chairperson

ANTHONY DEREZINSKI,
Vice Chairperson

GEORGE E. WARD

WILLIAM C. WHITBECK

Legislative Members:

SENATOR VINCENT GREGORY

SENATOR TONYA SCHUITMAKER

REPRESENTATIVE KURT HEISE

REPRESENTATIVE MARK MEADOWS

Ex Officio Member:

JOHN G. STRAND

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Lansing, Michigan 48909-7536

JANE O. WILENSKY, *Executive Secretary*



Michigan
Law Revision Commission

FORTY-FOURTH ANNUAL REPORT
2011

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**This report may be downloaded from the Commission's Internet website,
<http://council.legislature.mi.gov/mlrc.html>**

MICHIGAN LAW REVISION COMMISSION
FORTY-FOURTH ANNUAL REPORT TO THE LEGISLATURE
FOR CALENDAR YEAR 2011

To the Members of the Michigan Legislature:

The Michigan Law Revision Commission hereby presents its forty-fourth annual report pursuant to section 403 of Act No. 268 of the Public Acts of 1986, MCL § 4.1403.

The Commission, created by section 401 of Act No. 268 of the Public Acts of 1986, MCL § 4.1401, consists of two members of the Senate, with one from the majority and one from the minority party, appointed by the Majority Leader of the Senate; two members of the House of Representatives, with one from the majority and one from the minority party, appointed by the Speaker of the House; the Director of the Legislative Service Bureau or his or her designee, who serves as an ex officio member; and four members appointed by the Legislative Council. The terms of the members appointed by the Legislative Council are staggered. The Legislative Council designates the Chair of the Commission. The Vice Chair is elected by the Commission.

Membership

The legislative members of the Commission during 2011 were Senator Vincent Gregory of Southfield; Senator Tonya Schuitmaker of Lawton; Representative Kurt Heise of Plymouth; and Representative Mark Meadows of East Lansing. Legislative Council Administrator John G. Strand was the ex officio member of the Commission. The appointed members of the Commission were Richard D. McLellan, Anthony Derezinski, George E. Ward, and William C. Whitbeck. Mr. McLellan served as Chairperson and Mr. Derezinski served as Vice Chairperson. Jane O. Wilensky served as Executive Secretary. Brief biographies of the Commission members and staff are located at the end of this report.

The Commission's Work in 2011

The Commission is charged by statute with the following duties:

1. To examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and to recommend needed reform.
2. To receive and consider proposed changes in law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association, and other learned bodies.
3. To receive and consider suggestions from justices, judges, legislators and other public officials, lawyers, and the public generally as to defects and anachronisms in the law.
4. To recommend such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the civil and criminal law of this state into harmony with modern conditions.
5. To encourage the faculty and students of the law schools of this state to participate in the work of the Commission.
6. To cooperate with the law revision commissions of other states and Canadian provinces.
7. To issue an annual report.

The problems to which the Commission directs its studies are largely identified through an examination by the Commission members and the Executive Secretary of the statutes and case law of Michigan, the reports of learned bodies and commissions from other jurisdictions, and legal literature. Other subjects are brought to the attention of the Commission by various organizations and individuals, including members of the Legislature.

The Commission's efforts during the year have been devoted primarily to three areas. First, Commission members provided information to legislative committees related to various proposals previously recommended by the Commission. Second, the Commission examined suggested legislation proposed by various groups involved in law revision activity. These proposals included legislation advanced by the Council of State Governments, the National Conference of Commissioners on Uniform State Laws, and the law revision commissions of various jurisdictions within and outside the United States. Finally, the Commission considered various problems relating to special aspects of current Michigan law suggested by its own review of Michigan decisions and the recommendations of others.

As in previous years, the Commission studied various proposals that did not lead to legislative recommendations. In the case of certain uniform or model acts, the Commission sometimes found that the subjects treated had been considered by the Michigan Legislature in recent legislation and, therefore, did not recommend further action. In other instances, uniform or model acts were not pursued because similar legislation was currently pending before the Legislature upon the initiation of legislators having a special interest in the particular subject.

Proposals for Legislative Consideration in 2012

In addition to its new recommendations, the Commission recommends favorable consideration of the following recommendations of past years upon which no final action was taken in 2011:

- (1) Use of Technology to Conduct Government Meetings, 2003 Annual Report, page 9.
- (2) Governor's Power to Remove Public Officials from Office, 2003 Annual Report, page 21.
- (3) Immunity for Court-Appointed Psychologists, 2000 Annual Report, page 84.
- (4) Pre-Dispute, Contractual Venue Selection Clauses, 1998 Annual Report, page 203.
- (5) Uniform Unincorporated Nonprofit Associations Act, 1997 Annual Report, page 144.
- (6) Prison Mailbox Rule, 1997 Annual Report, page 137.
- (7) Uniform Conflict of Laws—Limitations Act, 1997 Annual Report, page 151.
- (8) E-Mail and the Freedom of Information Act, 1997 Annual Report, page 133.
- (9) Uniform Putative and Unknown Fathers Act, 1994 Annual Report, page 117.
- (10) Motorcycles and the No-Fault Insurance Act, 1993 Annual Report, page 131.
- (11) Tortfeasor Contribution under MCL 600.2925a(5), 1992 Annual Report, page 21.
- (12) International Commercial Arbitration, 1991 Annual Report, page 31.
- (13) Uniform Contribution among Joint Tortfeasors Act, 1991 Annual Report, page 19.

- (14) Uniform Statutory Rule against Perpetuities, 1990 Annual Report, page 41.
- (15) Standardization of Condemnation Powers Provisions, 1989 Annual Report, page 15.
- (16) Consolidated Receivership Statute, 1988 Annual Report, page 72.

Current Study Agenda

Topics on the current study agenda of the Commission are:

- (1) Codification of economic development laws.
- (2) Elimination of references to non-existent courts.
- (3) Review of issues regarding licensure of in-house international lawyers.
- (4) Review of Michigan laws affecting transparency in governmental operations.
- (5) Review of Governor's power to remove public officials from office.
- (6) Review of emergency preparedness laws.

The Commission continues to operate with its sole staff member, the part-time Executive Secretary. The current Executive Secretary of the Commission is Jane O. Wilensky, who was responsible for the publication of this report. By using faculty members at several Michigan law schools as consultants and law students as researchers, the Commission has been able to operate on a budget substantially lower than that of similar commissions in other jurisdictions. At the end of this report, the Commission provides a list of more than 120 Michigan statutes passed since 1967 upon the recommendation of the Commission.

The Office of the Legislative Council Administrator handles the fiscal operations of the Commission under procedures established by the Legislative Council.

The Commission continues to welcome suggestions for improvement of its program and proposals.

Respectfully submitted,

Richard D. McLellan, Chairperson
Anthony Derezinski, Vice Chairperson
George E. Ward
William C. Whitbeck
Senator Vincent Gregory
Senator Tonya Schuitmaker
Representative Kurt Heise
Representative Mark Meadows
John G. Strand

REPORT ON RECENT COURT DECISIONS IDENTIFYING STATUTES FOR LEGISLATIVE ACTION AND RECOMMENDATIONS TO THE LEGISLATURE

As part of its statutory charge to examine recent judicial decisions for the purpose of discovering defects and anachronisms in the law and to recommend needed reforms, the Michigan Law Revision Commission undertook a review of Michigan Supreme Court and Court of Appeals decisions issued through December 31, 2011, urging legislative action. That review identified five decisions for which the Commission makes no recommendation. The decisions examined by the Commission are:

1. *Snay v Vest*, 489 Mich 914; 796 NW2d 464 (2011).
2. *People v Parks*, 489 Mich 929; 797 NW2d 136 (2011).
3. *Henry Ford Health System v Esurance Ins. Co.*, 488 Mich 1026; 792 NW2d 336 (2011).
4. *In re: TD*, 292 Mich App 678 (2011).
5. *People v Torres-David*, 490 Mich 863; 802 NW2d 603 (2011).

1. Rights of Biological Fathers Under the Paternity Act

A. Background

Under the Paternity Act, MCL 722.711 *et seq.*, a biological father lacks standing to sue for custody when the mother of the child is married to another man. The biological father can only sue when the child is born “out of wedlock,” which is defined as a “child begotten and born to a woman who was not married from the conception to the date of birth of the child, or a child that the court has determined to be a child born or conceived during a marriage but not the issue of that marriage.” MCL 722.711. This definition applies to three related statutes: the Paternity Act, the Acknowledgement of Parentage Act, MCL 722.1001 *et seq.*, and the Custody Act, MCL 722.21 *et seq.* See *Girard v Wagenmaker*, 437 Mich 231, 243 (1991) (applying the definitions under the *in pari materia* rule). A biological father in this situation would not even have standing to ask the court to make a determination that the child was not the issue of the marriage. MCL 722.711; *Girard, supra*, 437 Mich at 252; *Snay v Vest*, 293618 WL 4679590 (Mich Ct App Nov 18, 2010).

In *Snay v Vest*, the Court of Appeals held that plaintiff, the biological father of a child born to the defendant while she was married to a different man, lacked standing to sue for custody. The evidence showed that defendant’s husband was not present in her or the child’s life, that defendant’s utilities had been cut off, and that two of defendant’s older children were placed under the jurisdiction of the probate court through guardianship.

The Supreme Court denied plaintiff’s application for leave to appeal. *Snay v Vest*, 489 Mich 914 (2011). Justice Kelly concurred, but expressed vigorous disagreement with the “overly rigid” standing threshold in the Paternity Act. She strongly urged the Legislature to reconsider the act and to confer standing on fathers who can definitely prove their paternity.

B. Question Presented

Should the Legislature amend the Paternity Act to allow a biological father whose child was born while the mother was married to another man standing to sue for custody?

C. Recommendation

The Commission recommends legislative review of this issue, but makes no recommendation of specific legislative action.

2. Electronic Recording of Custodial Interrogations

A. Background

In *People v Parks*, 489 Mich 929 (2011), the Supreme Court denied application for leave to appeal a Court of Appeals' decision, which held that the failure to make an audio or visual recording of the defendant's custodial confession did not violate the Due Process Clause of the Michigan Constitution. Justice Kelly dissented, noting that while most courts have concluded that a failure to electronically record police interrogations does not violate their state constitutions, many have recognized the benefits to all parties of such recordings. The issue before the Court has received increased national attention in recent years as more states implement some form of electronic recording requirement. Justice Kelly stated that several states have enacted statutes requiring electronic recording of police interrogations. In 2011, the Michigan Senate passed SB 152, which requires electronic recording of interrogations. The bill was referred to the House Judiciary Committee on April 14, 2011; no action has been taken since that time.

B. Question Presented

Should the Legislature enact a statute mandating the electronic recording of custodial interrogations?

C. Recommendation

The Commission recommends legislative review of this issue, but makes no recommendation of specific legislative action.

D. Subsequent Legislative Action

The Commission notes that before publication of this annual report, legislation was passed that addresses this issue. 2012 PA 479. Among other provisions, 2012 PA 479 amends the Code of Criminal Procedure to provide that a law enforcement official interrogating an individual in custodial detention about the individual's participation in the commission of a major felony shall make a time-stamped, audiovisual recording of the entire interrogation.

3. No-Fault Benefits for Passengers of Stolen Vehicles

A. Background

Under Michigan No-Fault laws, MCL 500.3101 *et seq.*, personal protection insurance benefits do not cover injuries where the person used "a motor vehicle or motorcycle which he or she had taken unlawfully, unless the person reasonably believed that he or she was entitled to take and use the vehicle. MCL 500.3113(a). In *Henry Ford Health Sys v Esurance Ins Co*, the plaintiff provided medical services to a passenger injured when the stolen vehicle struck a utility pole. 288 Mich App 593 (2011). Plaintiff filed an action against the insurer of the stolen vehicle to recover the costs of medical services as a no-fault benefit.

The Court of Appeals ruled in favor of the plaintiff, reasoning that the passenger was entitled to benefits since he "never engaged or participated in an act through which he took possession or gained control" of the car. While the Court was bound to the plain meaning of the text of the statutory provision, the Court noted that "it is certainly arguable, on a practical level, that it makes little sense to distinguish between a thief or joyrider who directly participates in the taking of a motor vehicle for purposes of PIP-benefits exclusion."

The Supreme Court denied application for leave to appeal. Justice Markman and three other justices concurred, agreeing that the plain language of the statute compelled this result. But Judge Markman found it "deeply troubling" that the insurer must provide no-fault benefits to a passenger riding in a

vehicle that was “obviously stolen.” *Henry Ford Health System v Esurance Ins Co.*, 488 Mich 1026 (2011).

B. Question Presented

Should the Legislature amend MCL 500.3113(a) to provide that a passenger who knows that the vehicle is stolen but did not him or herself take it without permission is ineligible for no-fault benefits?

C. Recommendation

The Commission recommends legislative review of this issue, but makes no recommendation of specific legislative action.

4. Sex Offenders Registration Act Requirements for Juveniles

A. Background

In re: TD concerns a juvenile convicted of second-degree criminal sexual conduct when he was 15 years old for conduct that included pushing the victim in the back, grabbing her breast, putting her in a chokehold, and pulling her shirt and exposing her breast while his accomplice pulled on the victim’s belt. 292 Mich App 678 (2011). The juvenile was detained in a youth home, placed on probation, and participated in a community-based treatment program along with group and individual therapy.

Under provisions of the Sex Offenders Registration Act, MCL 28.722 and 28.723, the respondent was required to fully register under the act when he reached 18 years of age. Further, under MCL 28.728c(14)(c)(ii), he fell within the mandatory prohibition against granting relief from the registration requirements. The trial court held that SORA’s registration requirements amounted to cruel and unusual punishment in violation of the Michigan Constitution.

The Court of Appeals reversed the trial court, rejecting plaintiff’s constitutional argument. Judge Krause concurred but wrote separately to emphasize the policy implications of the decision. The efficacy of SORA “is drastically impaired by the registration of people known not to be likely predators and of juvenile offenders who were not deemed sufficiently dangerous to warrant even an attempt to have them waived to an adult court...” While declining to label it cruel and unusual punishment, Judge Krause nonetheless urged the Legislature to give “trial courts the means to enhance SORA by exercising discretion to deregister or decline to register people who can be shown to be non-dangerous.”

B. Question Presented

Should the Legislature amend MCL 28.728 to allow trial courts greater discretion to decline to register a juvenile offender who was either not tried as an adult or otherwise determined to not be dangerous?

C. Recommendation

The Commission recommends legislative review of this issue but makes no recommendation of specific legislative action.

5. Undocumented Aliens as “Vulnerable Victims”

A. Background

In *People v Torres-David*, 490 Mich 863 (2011), the Supreme Court upheld an order denying the application for leave to appeal a trial court’s assessment of 15 points under offense variable (“OV”) 10. See MCL 777.40(1). The statute provides higher sentences for crimes targeting the exploitation of vulnerable victims. Under the statute, “vulnerability” is defined as “the readily apparent susceptibility of

a victim to injury, physical restraint, persuasion, or temptation.” MCL 777.40(3)(c). The statute provides various categories of behavior, such as a victim’s physical disability, mental disability, youth or agedness, or a domestic relationship...” MCL 777.40(1)(c). The statute covers circumstances under which the “offender exploit[s] a victim by his or her difference in size or strength, or both, or exploit[s] a victim who was intoxicated, under the influence of drugs, asleep, or unconscious.”

This case involved victims living in the United States illegally. The trial court held that they were “vulnerable” because of a perceived unwillingness to report criminal activities to the authorities because of their undocumented status.

The Supreme Court denied the application for leave to appeal. Justice Markman, joined by Justices Mary Beth Kelly and Zahra, dissented, questioning the majority’s assumption that “illegal alien statutes somehow transforms those persons into “vulnerable” victims, so that crimes committed against them are to be punished more severely than identical crimes against citizens and legal aliens.” Justice Markman argued that the list of mental and physical impairments in the statute’s categories foreclosed the inclusion of illegal status as a basis for finding “vulnerability.” Furthermore, “there is no reasonable basis in the law for treating crimes against persons who are lawbreakers with greater severity” than those who abide by the law. *Id.*, at 606.

Responding to Justice Markman, Justice Kelly objected to the view that undocumented aliens be summarily excluded from consideration as vulnerable victims under OV 10. Justice Kelly believes that the statute focuses on an offender’s conduct, not on the victim’s status, thus punishing those who engage in criminal exploitive conduct more harshly than those who do not.” *Id.*, at 604-605. Undocumented aliens may be labeled “easy targets,” and, therefore, should be included in the definition of “vulnerable.”

B. Question Presented

Should the Legislature amend MCL 777.40 to expressly address the category of undocumented aliens in the definition of “vulnerable victims” solely on account of their undocumented status?

C. Recommendation

The Commission recommends legislative review of this issue, but makes no recommendation of specific legislative action.

PRIOR ENACTMENTS PURSUANT TO
MICHIGAN LAW REVISION COMMISSION RECOMMENDATIONS

The following Acts have been adopted to date pursuant to recommendations of the Commission and in some cases amendments thereto by the Legislature:

1967 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Original Jurisdiction of Court of Appeals	1966, p. 43	65
Corporation Use of Assumed Names Interstate and International Judicial Procedures	1966, p. 36	138
Stockholder Action Without Meetings	1966, p. 25	178
Powers of Appointment	1966, p. 41	201
Dead Man's Statute	1966, p. 11	224
	1966, p. 29	263

1968 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Possibilities of Reverter and Right of Entry	1966, p. 22	13
Stockholder Approval of Mortgage of Corporate Assets	1966, p. 39	287
Corporations as Partners	1966, p. 34	288
Guardians Ad Litem	1967, p. 53	292
Emancipation of Minors	1967, p. 50	293
Jury Selection	1967, p. 23	326

1969 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Access to Adjoining Property	1968, p. 19	55
Recognition of Acknowledgments	1968, p. 64	57
Dead Man's Statute Amendment	1966, p. 29	63
Notice of Change in Tax Assessments	1968, p. 30	115
Antenuptial and Marital Agreements	1968, p. 27	139
Anatomical Gifts	1968, p. 39	189
Administrative Procedures Act	1967, p. 11	306
Venue for Civil Actions	1968, p. 17	333

1970 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Land Contract Foreclosures	1967, p. 55	86
Artist-Art Dealer Relationships	1969, p. 41	90
Minor Students' Capacity to Borrow Act	1969, p. 46	107
Warranties in Sales of Art	1969, p. 43	121
Appeals from Probate Court	1968, p. 32	143
Circuit Court Commissioner Powers of Magistrates	1969, p. 57	238

1971 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Revision of Grounds for Divorce	1970, p. 7	75
Civil Verdicts by 5 of 6 Jurors in Retained Municipal Courts	1970, p. 40	158
Amendment of Uniform Anatomical Gift Act	1970, p. 45	186

1972 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Summary Proceeding for Possession of Premises	1970, p. 16	120
Interest on Judgments	1969, p. 59	135
Business Corporations	1970, Supp.	284
Constitutional Amendment re Juries of 12	1969, p. 60	HJR "M"

1973 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Execution and Levy in Proceedings Supplementary to Judgment	1970, p. 51	96
Technical Amendments to Business Corporation Act	1973, p. 8	98

1974 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Venue in Civil Actions Against Non-Resident Corporations	1971, p. 63	52
Choice of Forum	1972, p. 60	88
Extension of Personal Jurisdiction in Domestic Relations Cases	1972, p. 53	90
Technical Amendments to the Michigan General Corporations Act	1973, p. 37	140
Technical Amendments to the Revised Judicature Act	1971, p. 7	297
Technical Amendments to the Business Corporation Act	1974, p. 30	303
Amendment to Dead Man's Statute	1972, p. 70	305
Attachment and Collection Fees	1968, p. 22	306
Contribution Among Joint Tortfeasors	1967, p. 57	318
District Court Venue in Civil Actions	1970, p. 42	319
Due Process in Seizure of a Debtor's Property (Elimination of Pre-Judgment Garnishment)	1972, p. 7	371

1975 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Hit-Run Offenses	1973, p. 54	170
Equalization of Income Rights of Husband and Wife in Entirety Property	1974, p. 12	288
Disposition of Community Property Rights at Death	1973, p. 50	289
Insurance Policy in Lieu of Bond	1969, p. 54	290
Child Custody Jurisdiction	1969, p. 23	297

1976 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Due Process in Seizure of a Debtor's Property (Replevin Actions)	1972, p. 7	79
Qualifications of Fiduciaries	1966, p. 32	262
Revision of Revised Judicature Act Venue Provisions	1975, p. 20	375
Durable Family Power of Attorney	1975, p. 18	376

1978 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Juvenile Obscenity	1975, p. 133	33
Multiple Party Deposits	1966, p. 18	53
Amendment of Telephone and Messenger Service Company Act	1973, p. 48	63
Elimination of References to Abolished Courts:		
a. Township Bylaws	1976, p. 74	103
b. Public Recreation Hall Licenses	1976, p. 74	138
c. Village Ordinances	1976, p. 74	189
d. Home Rule Village Ordinances	1976, p. 74	190
e. Home Rule Cities	1976, p. 74	191
f. Preservation of Property Act	1976, p. 74	237
g. Bureau of Criminal Identification	1976, p. 74	538
h. Fourth Class Cities	1976, p. 74	539
i. Election Law Amendments	1976, p. 74	540
j. Charter Townships	1976, p. 74	553
Plats	1976, p. 58	367
Amendments to Article 9 of the Uniform Commercial Code	1975, Supp.	369

1980 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures	1968, p. 8	87
Technical Revision of the Code of Criminal Procedure	1978, p. 37	506

1981 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to the Justice of the Peace:		
Sheriff's Service of Process	1976, p. 74	148
Court of Appeals Jurisdiction	1980, p. 34	206

1982 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Limited Partnerships	1980, p. 40	213
Technical Amendments to the Business Corporation Act	1980, p. 8	407

Interest on Probate Code Judgments	1980, p. 37	412
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1983 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of References to Abolished Courts: Police Courts and County Board of Auditors	1979, p. 9	87
Federal Lien Registration	1979, p. 26	102

1984 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Legislative Privilege:		
a. Immunity in Civil Actions	1983, p. 14	27
b. Limits of Immunity in Contested Cases	1983, p. 14	28
c. Amendments to Revised Judicature Act for Legislative Immunity	1983, p. 14	29
Disclosure of Treatment Under the Psychologist/Psychiatrist- Patient Privilege	1978, p. 28	362

1986 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Amendments to the Uniform Limited Partnership Act	1983, p. 9	100

1987 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Amendments to Article 8 of the Uniform Commercial Code	1984, p. 97	16
Disclosure in the Sale of Visual Art Objects Produced in Multiples	1981, p. 57	40, 53, 54

1988 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Repeal of M.C.L. § 764.9	1982, p. 9	113
Statutory Rule Against Perpetuities	1986, p. 10	417, 418
Transboundary Pollution		
Reciprocal Access to Courts	1984, p. 71	517

1990 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to Abolished Courts:		
a. Procedures of Justice Courts and Municipal Courts	1985, p. 12; 1986, p. 125	217
b. Noxious Weeds	1986, p. 128; 1988, p. 154	218
c. Criminal Procedure	1975, p. 24	219
d. Presumption Concerning Married Women	1988, p. 157	220
e. Mackinac Island State Park	1986, p. 138; 1988, p. 154	221
f. Relief and Support of the Poor	1986, p. 139; 1988, p. 154	222
g. Legal Work Day	1988, p. 154	223
h. Damage to Property by Floating Lumber	1988, p. 155	224

1991 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Elimination of Reference to Abolished Courts:		
a. Land Contracts	1988, p. 157	140
b. Insurance	1988, p. 156	141
c. Animals	1988, p. 155	142
d. Trains	1986, pp. 153, 155; 1987, p. 80; 1988, p. 152	143
e. Appeals	1985, p. 12	144
f. Crimes	1988, p. 153	145
g. Library Corporations	1988, p. 155	146
h. Oaths	1988, p. 156	147
i. Agricultural Products	1986, p. 134; 1988, p. 151	148
j. Deeds	1988, p. 156	149
k. Corporations	1989, p. 4; 1990, p. 4	150
l. Summer Resort Corporations	1986, p. 154; 1988, p. 155	151
m. Association Land	1986, p. 154; 1988, p. 155	152
n. Burial Grounds	1988, p. 156	153
o. Posters, Signs, and Placecards	1988, p. 157	154

p. Railroad Construction	1988, p. 157; 1988, p. 156	155
q. Work Farms	1988, p. 157	156
r. Recording Duties	1988, p. 154	157
s. Liens	1986, pp. 141, 151, 158; 1988, p. 152	159

1992 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Determination of Death Act	1987, p. 13	90

1993 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures of Home Rule Villages	1989, p. 17	32
Condemnation Procedures Regarding Railroads	1989, p. 25	354
Condemnation Procedures Regarding Railroad Depots	1989, p. 26	354

1995 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures Regarding Inland Lake Levels	1989, p. 24	59
Condemnation Procedures of School Districts	1989, p. 24	289

1996 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Felony Murder and Arson	1994, p. 179	20, 21

1998 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Condemnation Procedures of General Law Villages	1989, p. 16	254
Repeal of Article 6 of the Uniform Commercial Code	1994, p. 111; 1997, p. 131	489
Uniform Fraudulent Transfer Act	1988, p. 13	434
Uniform Trade Secrets Act	1993, p. 7	448
Revisions to Lemon Law (recommendation to include leased vehicles)	1995, p. 7	486

2002 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Guilty but Mentally Ill-Burden of Proof	2000, p. 85	245

2003 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Anatomical Gifts	1993, p. 53	62, 63

2004 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Governor's Power to Remove Public Officials from Office (recommendation on school board and intermediate school board members)	2003, p. 21	234

BIOGRAPHIES OF COMMISSION MEMBERS AND STAFF

RICHARD D. McLELLAN

Richard D. McLellan is Chair of the Michigan Law Revision Commission, a position he has filled since 1986 following his appointment as a public member of the Commission in 1985.

McLellan is a practicing attorney and business consultant in Lansing, Michigan. In 2007, Mr. McLellan retired as a lawyer with the law firm of Dykema Gossett PLLC where he served as the Member-in-Charge of the firm's Lansing Office and as the leader of the firm's Government Policy Department.

He is a member of the Board of Directors of ITC Holdings (NYSE: ITC) and is an Independent Trustee of the JNL Series Trust, a \$50 billion variable annuity fund managed by the Jackson National Life Insurance Company. He also serves as Chairman of Africa Continental Holdings, LLC.

By appointment of the Supreme Court, Mr. McLellan served two terms as a Member of the Board of Commissioners of the State Bar of Michigan.

Mr. McLellan started his career as an administrative assistant to Governor William G. Milliken and as Acting Director of the Michigan Office of Drug Abuse.

Following the 1990 Michigan elections, Mr. McLellan was named Transition Director to then Governor-elect John Engler. In that capacity, he assisted in the formation of Governor Engler's Administration and conducted a review of state programs. He was also appointed by the Governor as Chairman of the Corrections Commission, a member of the Michigan Export Development Authority, a member of the Michigan International Trade Authority, a member of the Library of Michigan Board of Trustees, a member of the Michigan Jobs Commission, a member of the McPherson Commission on Charter Schools and Chairperson of the Michigan Film Advisory Commission.

During the administration of President Gerald Ford, he served as an advisor to the Commissioner of the Food and Drug Administration as a member of the National Advisory Food and Drug Committee of the U.S. Department of Health, Education and Welfare.

In 1990, Mr. McLellan was appointed by President George Bush as a Presidential Observer to the elections in the People's Republic of Bulgaria. The elections were the first free elections in the country following 45 years of Communist rule. In 1996, he again acted as an observer for the Bulgarian national elections. And again in February 1999, he acted as an observer for the Nigerian national elections with the International Republican Institute.

Mr. McLellan is a member of the Board of Governors of the Cranbrook Institute of Science, one of Michigan's leading science museums. He helped establish and served for ten years as president of the Library of Michigan Foundation. He helped establish and served as both President and Chairman of the Michigan Japan Foundation, the private foundation providing funding for the Japan Center for Michigan Universities.

Mr. McLellan has served as a member of the Board of Trustees of Michigan State University Detroit College of Law and is a member of the Advisory Board for MSU's James H. and Mary B. Quello Center for Telecommunication Management and Law. He also serves as an adjunct professor in MSU's College of Communications Arts.

Mr. McLellan is a former Chairman of the Board of Directors of the Michigan Chamber of Commerce and is a member of the Board of Directors of the Mackinac Center for Public Policy, the Oxford Foundation, and the Cornerstone Foundation.

Mr. McLellan served as a member of the Board of Directors of the Mercantile & General Life Reassurance Company of America and the Crown America Life Insurance Company. He also served as Chairman of the Michigan Competitive Telecommunications Providers Association and as Chairman of the Information Technology Association of Michigan.

Mr. McLellan has been active in matters concerning persons with disabilities. He is a former President of the Arthritis Foundation, Michigan Chapter, a former member of the National Advocacy Committee of the Arthritis Foundation, and a former member of the National Research Committee, Arthritis Foundation.

He is a graduate of the Michigan State University Honors College and the University of Michigan Law School. He has served as an adjunct professor of international studies at Michigan State University.

ANTHONY DEREZINSKI

Mr. Derezinski is Vice Chairman of the Michigan Law Revision Commission, a position he has filled since May 1986 following his appointment as a public member of the Commission in January of that year.

Mr. Derezinski is a Councilmember of the Ann Arbor City Council to which he was elected in November of 2008. He is also an Instructor at The University of Michigan School of Education where he teaches courses in various aspects of Education Law. He is the former Director of Government Relations for the Michigan Association of School Boards from which he retired in 2008. He also previously served as an adjunct professor of law at the University of Michigan Law School and at the Department of Education Administration of Michigan State University, and previously was a visiting professor of law at the Thomas M. Cooley Law School.

He is a graduate of Muskegon Catholic Central High School, Marquette University, the University of Michigan Law School (Juris Doctor degree), and Harvard Law School (Master of Laws degree). He is married and resides in Ann Arbor, Michigan.

Mr. Derezinski is a Democrat and served as State Senator from 1975 to 1978. He was a member of the Board of Regents of Eastern Michigan University for 14 years, served on the Committee of Visitors of the University of Michigan Law School, and was a member of the Council of the Center for the Education of Women in Ann Arbor. He also serves on the Foundation Board of the Hospice of Ann Arbor.

He served as a Lieutenant in the Judge Advocate General's Corps in the United States Navy from 1968 to 1971 and as a military judge in the Republic of Vietnam. He is a member of the Veterans of Foreign Wars, Derezinski Post 7729, the American Legion Department of Michigan, and the Vietnam Veterans of America.

GEORGE E. WARD

Mr. Ward is a public member of the Michigan Law Revision Commission and has served since his appointment in August 1994.

Mr. Ward was the Chief Assistant Prosecuting Attorney in Wayne County in the administration of the Honorable John D. O’Hair. Earlier in his career, he clerked for Justice Theodore Souris of the Michigan Supreme Court and for 20 years was in private civil practice in the City of Detroit. In 2001, Mr. Ward returned to private practice in Wayne County.

He is a graduate of the University of Detroit, and the University of Michigan Law School. He and his wife Margaret, parents of five adult children, live in Canton.

Mr. Ward is an Adjunct Professor at Michigan State College of Law and Wayne State University Law School, and a Lecturer II at University of Michigan – Dearborn (political science and criminal justice). He is Board Chair of Catholic Social Services of Wayne County; past President of the Incorporated Society of Irish American Lawyers; a former President of the Board of Control of Saginaw Valley State University; a former commissioner of the State Bar of Michigan; the former President of the Wayne County Home Rule Charter Commission; the former Executive Secretary of the 1971-72 City of Detroit Charter Revision Commission; and a former member of the Board of Directors of Wayne Center.

WILLIAM C. WHITBECK

Judge William C. Whitbeck is a public member of the Michigan Law Revision Commission and has served since his appointment in January 2000.

Judge Whitbeck was born on January 17, 1941, in Holland, Michigan, and was raised in Kalamazoo, Michigan. His undergraduate education was at Northwestern University, where he received a McCormack Scholarship in Journalism. He received his JD. from the University of Michigan Law School in 1966, and was admitted to the Michigan Bar in 1969.

Judge Whitbeck has held a variety of positions with the state and federal governments, including serving as Administrative Assistant to Governor George Romney from 1966 to 1969, Special Assistant to Secretary George Romney at the U.S. Department of Housing and Urban Development from 1969 to 1970, Area Director of the Detroit Area Office of the U.S. Department of Housing and Urban Development from 1970 to 1973, Director of Policy of the Michigan Public Service Commission from 1973 to 1975 and Counsel to Governor John Engler for Executive Organization/Director of the Office of the State Employer from 1991 to 1993. He served on the Presidential Transition Team of President-Elect Ronald Reagan in 1980, and as Counsel to the Transition Team of Governor-Elect John Engler in 1990.

In private practice, Judge Whitbeck was a partner in the law firm of McLellan, Schlaybaugh & Whitbeck from 1975 to 1982, a partner in the law firm of Dykema, Gossett, Spencer, Goodnow and Trigg from 1982 to 1987, and a partner in the law firm of Honigman Miller Schwartz and Cohn from 1993 to 1997.

Judge Whitbeck is a member of the State Bar of Michigan, the American Bar Association, the Ingham County Bar Association, and the Castle Park Association, and has served as Chair of the Michigan Historical Commission. He is a Fellow of both the Michigan State Bar Foundation and the American Bar Foundation.

Governor John Engler appointed Judge Whitbeck to the Court of Appeals effective October 22, 1997, to a term ending January 1, 1999. Judge Whitbeck was reelected to six-year terms in 1998, 2004, and 2010. His current term expires January 1, 2017. Chief Judge Richard Bandstra designated Judge Whitbeck as Chief Judge Pro Tem of the Court of Appeals effective January 1, 1999. The Supreme Court appointed Judge Whitbeck Chief Judge of the Michigan Court of Appeals three times and he served in that position from January 1, 2002 to December 31, 2007.

Judge Whitbeck and his wife Stephanie reside in downtown Lansing in a 125-year-old historic home that they have completely renovated. They are members of St. Mary Cathedral.

Judge Whitbeck is the author of a work of fiction, *To Account for Murder*, a courtroom drama set in Michigan in 1945-46.

VINCENT GREGORY

State Senator Vincent Gregory is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2011. In 2008, he was elected to State Representative for the 35th House District and currently is serving his first term as the State Senator for the 14th District. Senator Gregory is a member of the Senate Appropriations Committee and serves on the Appropriations Subcommittees of the Departments of Community Health, Human Services and State Police and Military Affairs. Senator Gregory also serves as the Minority Vice-Chair on the Senate Families, Seniors and Human Services Committee and as the Minority Vice-Chair on the Veterans, Military Affairs and Homeland Security Committee. Senator Gregory holds the positions of the Democratic Whip in the Senate Democratic Caucus and the 2nd Vice Chair of the Michigan Legislative Black Caucus.

In 1973, Senator Gregory joined the Wayne County Sheriff Department, where he attained the rank of Corporal and then Detective. After ten years with the Department, he ran for and was elected as Vice President of the Wayne County Sheriff's Local 502 SEIU, AFL-CIO. In 1993, he ran for President of the local and won that election, where he served as their President for the next seven years. In January 2003, Senator Gregory retired from Wayne County service.

In 1998, Senator Gregory ran successfully in a special election for Oakland County Commissioner of the 21st District. For the next ten years, he maintained that position. He served on numerous committees during his tenure with the Commission, which included General Government, Public Service, Planning and Building, Parks and Recreation, Vice Chair of the Airport Committee and the Democratic Commission Caucus, and Minority Vice Chair of the Finance and Personnel Committees.

Senator Gregory is married to his wife Yvonne and has six grown children (Lawrence, Troi, Vanessa, Vincent Jr., Cortney and Kristen). They also have six grandchildren (Lawrence "Jay", Kelsey, Elijah, Caiden, Eric and Caleb).

KURT HEISE

State Representative Kurt Heise is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2011. He was first elected in November 2010 to the Michigan House to represent residents in the City of Northville, Northville Township, the City of Plymouth, Plymouth Township, and the eastern area of Canton Township. Representative Heise is Chair of the House Criminal Justice Committee. He also serves on the Judiciary, Elections and Ethics, and Transportation Committees.

Representative Heise is a Trustee on the Plymouth-Canton Educational Foundation, serves on the Board of Directors for Friends of the Rouge, and formerly served as Chairman of the Rouge River Action Plan Advisory Council.

He graduated from Dearborn Public Schools and then attended the University of Michigan where he earned a bachelor's degree with distinction in 1988. He then earned a law degree and a Masters of Law in Labor Law from Wayne State University Law School.

Representative Heise began his career as a city attorney in Dearborn Heights and the City of Woodhaven, followed by serving as mayor's deputy in Dearborn Heights. From 2003 to 2009, he served as Director of the Wayne County Department of Environment where he played a significant role in the development of the State Watershed Alliance Act, was a member of the Blue Ribbon Commission for Lake St. Clair, and was appointed by the Speaker of the House to serve as co-chair of the Michigan Groundwater Conservation Advisory Council. He then returned to practicing law in Plymouth Township, working with Plymouth and Canton Township's legal departments, and he worked as an environmental and energy consultant. Representative Heise is also a consultant for Wayne State University's Urban Watershed program, is an Adjunct Professor at Wayne State University and frequent lecturer at the University of Michigan-Dearborn. He is a member of the State Bar of Michigan.

Representative Heise is a lifetime resident of Wayne County. He and his wife Catherine live in western Wayne County with their two children—Katie and Claire. He serves on the advisory board for his church, and volunteers for civic organizations including the Salvation Army and Plymouth Goodfellows.

MARK MEADOWS

State Representative Meadows is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2007. He was elected to the state House in 2006 and currently serves as Assistant Leader of the House and serves on the following Committees: (Chair) Judiciary; Great Lakes and Environment; Urban Policy; and Urban Policy.

Representative Meadows earned an undergraduate degree at Western Michigan University and his law degree at Michigan State University, formerly Detroit College of Law.

Representative Meadows was appointed as an assistant attorney general in 1975 and was assigned to represent various state agencies until his retirement in 2002 at which time he became a shareholder in Willingham Cote' P.C. Representative Meadows was elected as Mayor of East Lansing in 1997 and re-elected in 1999, 2001 and 2003; his final term expired in November 2005. Representative Meadows also served as an East Lansing City Council member from 1995-2006.

Representative Meadows and his wife Pam are the parents of four adult children and the grandparents of four.

TONYA SCHUITMAKER

State Senator Tonya Schuitmaker is a legislative member of the Michigan Law Revision Commission and has served on the Commission since January 2009. She was elected to the Michigan House in November 2004 to represent the 80th District, which includes all of Van Buren County, Otsego and the townships of Otsego and Watson in Allegan County. She was subsequently elected to the Michigan Senate in 2010 and now serves the 20th District, which encompasses Kalamazoo County and part of Van Buren County.

Ms. Schuitmaker is a 1986 graduate of Mattawan Consolidated Schools. She holds a B.A. in business from Michigan State University and graduated Cum Laude from the Detroit College of Law in 1993. Before being elected to the Michigan House, Ms. Schuitmaker was a partner in the law firm of Schuitmaker, Cooper and Schuitmaker. She began practicing law in 1993 and concentrated in family, estate, business and governmental law.

Senator Tonya Schuitmaker has made issues such as child protection, job growth and retention, the justice system, agriculture and tourism some of her top legislative priorities. In addition to her role as President Pro Tempore of the Michigan Senate, Senator Schuitmaker serves on the Appropriations Committee and is Chair of the Higher Education Subcommittee, Vice Chair of the Community Colleges, Capital Outlay and Judiciary Subcommittees. She also serves as Vice Chair of the Judiciary Committee and is a member of the Committee on Energy and Technology, and Committee on Health Policy.

Ms. Schuitmaker has been actively involved in her community. She has served on the State of Michigan Board of Medicine and Intercare Community Health Network and on the Van Buren Community Mental Health Board. In addition to her involvement in health-care causes, Ms. Schuitmaker serves as a member of the Van Buren County Community Corrections Advisory Board. Furthermore, she is involved in several organizations devoted to the arts and nature conservancy including the Kalamazoo Institute of the Arts, the Southwest Michigan Land Conservancy, and the Kalamazoo Nature Center. She is also a member of the Paw Paw Rotary, the Paw Paw Optimist Club, Daughters of the American Revolution, the Kalamazoo Bar Association and the Farm Bureau in addition to other local, state and national groups.

Ms. Schuitmaker and her husband Steve live in Lawton with their two children, Jordan and Savina.

JOHN G. STRAND

Since January 2001, Mr. Strand, as the Legislative Council Administrator, has served as the ex-officio member of the Michigan Law Revision Commission. The following agencies fall under his supervision: Legislative Service Bureau, Legislative Council Facilities Agency, Legislative Corrections Ombudsman, Joint Committee on Administrative Rules (staff), Michigan Law Revision Commission, State Drug Treatment Court Advisory Committee, and the Michigan Commission on Uniform State Laws.

Prior to being appointed to the Legislative Council, Mr. Strand served as Chairman of the Michigan Public Service Commission since October 1993 and had been a Tribunal Judge for the Michigan Tax Tribunal from January to October 1993. He had previously served six terms as a state legislator beginning in 1981, serving in a leadership position and as Vice Chair of the Insurance and the House Oversight Committees and as a member of the Taxation and Judiciary Committees.

Mr. Strand is a member of the State Bar of Michigan. He holds a B.A. from the University of Pittsburgh in Economics and Political Science (1973) and a J.D. from Case Western Reserve University (1976). Mr. Strand and his wife Cathy live in East Lansing, Michigan, and have two sons, Michael and Matthew.

JANE O. WILENSKY

Jane O. Wilensky was an Assistant Attorney General from 1984 until 2008, serving in the Finance and Development and Education and Social Services Divisions. From 1997 until 2008, she was the First Assistant in the Education and Social Services Division. Prior to her appointment as an Assistant Attorney General, she worked in the Office of Strategy and Forecasting in the Department of Commerce and the Office of Regulatory and Consumer Affairs in the Michigan Public Service Commission. She was a law clerk for the Hon. John W. Fitzgerald of the Michigan Supreme Court. In 2011, she was appointed Executive Secretary of the Commission.

Ms. Wilensky is a graduate of Boston University's School of Public Communications and received her J.D. *cum laude* from the Thomas M. Cooley Law School.